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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,539	03/10/2000	Sandeep Gulati	VIALO-04	4738

26686 7590 10/18/2002

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EXAMINER

KIM, YOUNG J

ART UNIT PAPER NUMBER

1637

DATE MAILED: 10/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

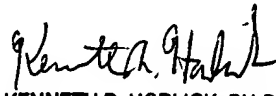
Notice of Abandonment	Application No.	Applicant(s)	
	09/523,539	GULATI ET AL.	
	Examiner	Art Unit	
	Young J. Kim	1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 05 April 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☒ A proposed reply was received on 04 October 2002, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
 (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
 The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

See Continuation Sheet


 KENNETH R. HORLICK, PH.D.
 PRIMARY EXAMINER
 10/17/02

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: Applicant's amendment received on October 4, 2002, does NOT place the application in condition for allowance for the following reasons.

Applicant has amended the independent claim 8 (and the dependents thereon) to a method claim, switching from the originally prosecuted invention of a computer system. If the instantly presented amend claims were not restrictable under 35 U.S.C. 121, such switch in the invention would not merit a new search nor raise new issues to be considered. However, the instant claims are drawn to a different invention (i.e., restrictable) which differs from originally prosecuted claims. As Applicants point out, the amended claims are drawn to a method which does not involve the generation of a viral diffusion curve based on "known viral load studies," but rather generates a viral diffusion curve based on two measurements without reference to the "known viral load studies." Further, the originally prosecuted invention was drawn to a system for determining the "effect of one or more therapies upon a subject," while the presently amended claims are drawn to an invention of "quantitating the viral load from microarray analysis," differing in their endeavors, raising new issues to be considered requiring further search.

Applicant has not filed a notice of appeal with the present response and because the present response fails to place the application in condition for allowance, the instant application is abandoned.

In a communication with Mr. Kukkonen, it was confirmed that no Notice of Appeal was filed with the present response.